

N. KEITH CHAMBERS
EXECUTIVE DIRECTOR

2. On August 22, 2007, Complainant appeared *pro se* and Respondent appeared through its counsel. Complainant failed to retain counsel. A discovery schedule was set.
3. On September 18, 2007, Respondent served Complainant with a request for production of documents and a set of interrogatories.
4. To date, Complainant has failed to respond to the request for documents, and on October 18, 2007, Respondent received responses to its interrogatories which were neither signed nor verified by Complainant as required by the Commission's Procedural Rules.
5. On November 29, 2007, Respondent filed a Motion to Compel with respect to certain discovery deficiencies, which was properly served on Complainant along with a notice of the hearing of that motion for December 6, 2007.
6. On December 6, 2007, Respondent appeared, but Complainant failed to appear, having informed the Commission she was ill and could not appear. As a result, the Respondent's Motion to Compel was continued until February 7, 2008.
7. Respondent served Complainant with a copy of the December 6, 2007 order and filed a proof of service with the Commission.
8. At the February 7, 2008, Complainant failed to appear or notify the Commission or Respondent's counsel of her absence from the status hearing.
9. The February 7, 2008 order specifically stated that if Complainant failed to appear at the next status hearing, the Commission shall grant Respondent leave to file this Motion.
10. As a result of Complainant's failure to appear, Respondent's Motion to Compel was continued to March 19, 2008.
11. Respondent served Complainant with a copy of the February 7, 2008 order and filed a proof of service with the Commission.

12. On March 19, 2008, Complainant failed to appear or notify anyone of her absence from the status hearing. As a result of Complainant's failure to appear, this matter was continued to April 3, 2008 and the Commission's order gave Respondent leave to file this Motion.

13. Respondent served Complainant with a copy of the March 19, 2008 order and filed a proof of service with the Commission.

14. After the March 19, 2008 status hearing, Complainant sent a letter to the Commission requesting a continuance of the March 19, 2008 status hearing.

15. On March 21, 2008, Respondent filed its Motion.

16. On March 21, 2008, a copy of this Motion was served on Complainant.

17. On March 25, 2008, the April 3, 2008 status hearing was stricken and was rescheduled for April 17, 2008, via telephone, because Complainant had submitted a "Motion to Continue" on March 21, 2008 stating that she was "not well enough to proceed, at this time."

18. The March 25, 2008 order stated that failure of a party to appear at the Commission's scheduled hearings, or follow the Commission's orders, may result in default or dismissal of the case.

19. On April 17, 2008, to determine Complainant's status and condition, I conducted a status hearing via telephone. I discussed with Complainant her reason for her failure to appear at status hearings without any prior notice to the Commission. Complainant was extremely rude and disrespectful to me, as well as failing to provide information that would lead me to conclude she was unable to appear for this case. I clearly and specifically asked Complainant if she could appear personally for a status hearing on May 8, 2008. She stated that would be fine.

20. Complainant informed me that she believed that the Department's prior order deemed Respondent violated the Illinois Human Rights Act and requires it to give

Complainant damages. She stated that Respondent refuses to pay her the damages. She said she has proven her case beyond a reasonable doubt.

21. Complainant also stated that she is not an attorney and does not know what interrogatories even are and has done the best that she can regarding discovery. She stated that she should not have to battle this Respondent because the evidence was substantial enough for the Department to order damages.

22. I explained to Complainant that the Commission is not bound by the Department's actions and proceeds under different standards of proof and procedures. I explained that she is required to litigate the case at the Commission and prove her case by a preponderance of the evidence.

23. On April 17, 2008, I entered an order stating that "Complainant had her file organized and was able to handle the status hearing well. Both parties stated it was fine to set the next status at the Commission's Chicago Office on May 8, 2008 at 11:00 a.m."

24. The April 17, 2008 order stated in bold: "The status hearing shall be at the Commission's Chicago Office. Both parties must appear in person." The order also stated that at the next status hearing, the parties shall discuss Respondent's Motion to Compel, Respondent's Motion to Dismiss and Complainant's Motion to Amend Pleadings.

25. On April 18, 2008, the Commission served the April 17, 2008 order on Complainant.

26. On April 18, 2008, Respondent filed a Reply to Complainant's March 28, 2008 letter that it had received and that was later received by the Commission as set forth below.

27. On April 24, 2008, Complainant filed with the Commission a letter entitled "Motion to Amend Pleadings by Respondent," dated March 28, 2008, which essentially is a Response to Respondent's Motion. In Complainant's filing, she requested the Motion

be stricken due to inaccurate information being construed by the Respondent's attorney to the Commission and repeated many of the same points stated to me in our April 17, 2008 telephone status hearing.

28. Respondent's Reply to Complainant's March 28, 2008 letter states that despite its title, the letter responds to the matters raised in Respondent's Motion.

29. Among other things, Respondent stated that despite Complainant's statements of complying with Respondent's document requests, Complainant has failed to respond to its document requests because the date of her package sent to Respondent, which she claims responded to Respondent's document requests (and Respondent claims was a response to the Verified Answer) is dated 8 days before Respondent even mailed out its discovery requests to Complainant.

30. On May 8, 2008, Complainant failed to appear for the status hearing and failed to contact the Commission or anyone else that she would not appear.

31. The May 8, 2008 order stated that Complainant's failure to appear at the Commission's scheduled hearing or comply with the Commission's order may result in dismissal of the case or other relief as justice requires. The May 8, 2008 order continued the Motion until the next status hearing which was set for May 21, 2008.

32. Respondent served a copy of the May 8, 2008 order on Complainant and filed a proof of service with the Commission.

33. On May 21, 2008 this matter again came before the Commission on Respondent's Motion.

34. Respondent appeared at the May 21, 2008 status hearing. Complainant failed to appear and failed to notify the Commission or anyone else that she would not appear.

35. The May 21, 2008 order stated that I would issue a Recommended Order and Decision on Respondent's Motion.

36. Respondent served a copy of the May 8, 2008 order on Complainant and filed a proof of service with the Commission.

CONCLUSIONS OF LAW

1. A complaint may be dismissed when a party fails to appear at a scheduled hearing without requesting a continuance reasonably in advance or unreasonably refuses to comply with a Commission Order or otherwise engages in conduct which unreasonably delays or protracts proceedings.

2. Complainant has failed to: (a) comply with discovery rules; (b) appear at status hearings; and (c) comply with Commission Orders. The appropriate sanction is dismissal of the Complaint, and the underlying charge, with prejudice.

DISCUSSION

Under Commission Procedural Rules, an Administrative Law Judge may recommend to the Commission that a complaint be dismissed where a party fails to appear at a scheduled status hearing, unreasonably refuses to comply with a Commission Order or otherwise engages in conduct which unreasonably delays or protracts proceedings. See **56 Ill. Admin. Code §5300.750(e)**.

A fundamental principle governing practice before the Commission is that complainants must diligently pursue their cases once they are docketed with the Commission. Complainant's discovery responses are overdue under the Commission's Procedural Rules. Complainant has failed to respond to Respondent's discovery in accordance with the Commission's Orders. Complainant has also failed to appear before the Commission for several status hearings.

Although Complainant is *pro se*, she was given time to retain counsel and failed to do so. I find Complainant is unreasonably delaying and protracting these proceedings, without good cause. Despite the fact that I explained the Commission's rules and procedures, Complainant either lacks understanding or is displaying complete

disregard of our procedures. I also find that continuing with this case is unfair to the Respondent. As such, it is appropriate to dismiss the Complaint, with prejudice.

Bulmer v. Teng & Associates, Inc., IHRC, 05-419, May 15, 2006. See also ***Williams v. SBC Ameritech***, IHRC, 05-455, Dec. 11, 2006.

RECOMMENDATION

I recommend the Commission dismiss the Complaint, and the underlying charge, with prejudice.

HUMAN RIGHTS COMMISSION

BY: _____
REVA S. BAUCH
DEPUTY CHIEF ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: June 11, 2008